

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

PATRICIA ALEMAN,)	
)	
Plaintiff,)	Cause No. 4:18-cv-214
)	
v.)	
)	
THI of MISSOURI at GRAVOIS, L.L.C.,)	
d/b/a SUNSET HILLS HEALTH &)	
REHABILITATION CENTER,)	
HUNT VALLEY HOLDINGS, L.L.C.,)	
FUNDAMENTAL ADMINISTRATIVE)	JURY TRIAL DEMANDED
SERVICES, L.L.C., AND)	
FUNDAMENTAL CLINICAL AND)	
OPERATIONAL SERVICES, L.L.C.,)	
)	
Defendants.)	

NOTICE OF REMOVAL

COMES NOW Defendant, THI of Missouri at Gravois, LLC d/b/a Sunset Hills Healthcare & Rehabilitation Center (hereinafter referred to as “Removing Defendant” and/or “Sunset Hills”), by and through counsel, and files this Notice of Removal pursuant to 28 U.S.C. §1441, et seq. to remove this case from the Circuit Court of St. Louis County, Missouri, to the United States District Court for the Eastern District of Missouri. As grounds for removal, and for no other purpose, Removing Defendant states as follows:

1. THI of Missouri at Gravois, LLC desires to exercise its rights under the provisions of Title 28 U.S.C. §1441, et seq., to remove this case from the Circuit Court of St. Louis County, Missouri, where this case is now pending in the name and style of Patricia Aleman v. THI of Missouri at Gravois, LLC, d/b/a Sunset Hills Health & Rehabilitation Center, Hunt Valley Holdings, LLC, Fundamental Administrative Services, LLC, and Fundamental Clinical and Operational Services, LLC, Case No. 17SL-CC-04444. Section 1441(a) provides: “Except as

otherwise expressly provided by act of Congress, any civil action brought in a state court of which the District Courts of the United States have original jurisdiction, may be removed by the defendant or the defendants to the District Court of the United States for the district and division embracing the place where such action is pending.”

2. This action first became removable pursuant to 28 U.S.C. § 1332 and § 1441 when Removing Defendant was served with a copy of the Summons and Complaint.

3. This notice is filed within thirty (30) days after Removing Defendant’s receipt of the Summons and Complaint in compliance with 28 U.S.C. § 1446(b). (See attached copy of state court file, marked **Exhibit A**). Accordingly, this Notice is timely filed under 28 U.S.C. § 1446(b).

4. The nature of this action is reflected in Plaintiff’s Petition, which is included within **Exhibit A**. In Count I, Plaintiff Patricia Aleman seeks to recover against all of the defendants for the alleged wrongful death of her son, Louis Aleman, on January 20, 2017. Count II of Plaintiff’s Petition is for “Nursing Home Abuse/Neglect” against THI of Missouri at Gravois, LLC, d/b/a Sunset Hills Health & Rehabilitation. Count III of Plaintiff’s Petition is for Negligence Per Se against Defendants Sunset Hills, Fundamental Administrative Services, LLC and Fundamental Clinical and Operational Services, LLC.

5. Plaintiff claims that as a result of the Defendants’ negligence, Louis Aleman “suffered severe pain, anxiety, mental distress, DVT, PE, and ultimately death.” Plaintiff seeks damages pursuant to the Missouri wrongful death statute, Mo. Rev. Stat. § 537.090, in excess of \$25,000.00, as well as punitive damages.

Diversity of Citizenship

6. Plaintiff, at the time the action in state court was commenced, was and still is a citizen of the State of Illinois.

7. This District Court has held that for purposes of diversity jurisdiction, the citizenship of a limited liability company is determined by the citizens of all of its members. Hennely v. Broadfield, No. 4:14-CV-1297 CEJ, 2014 WL 5754521, at *2 (E.D. Mo. Nov. 5, 2014), citing GMAC Commercial Credit, LLC v. Dillard Dep't Stores, Inc., 357 F.3d 827, 829 (8th Cir.2004). “[N]o circuit court has ever held that an LLC's citizenship is defined by its principal place of business, even when its sole member is a holding company that has delegated its power to control and manage the LLC.” Id., citing Johnson v. SmithKline Beecham Corp., 724 F.3d 337, 349–52 (3d Cir.2013). “Instead, every circuit court to have expressly addressed the question has unambiguously held that for purposes of establishing diversity of citizenship, an LLC's citizenship is determined by the citizenship of its constituent members.” Id. (citations omitted).

8. THI of Missouri at Gravois, LLC

At the time the action was commenced in state court, Removing Defendant THI of Missouri at Gravois, LLC was and still is a limited liability company organized under the laws of the State of Delaware. The sole member of THI of Missouri at Gravois, LLC, is THI of Missouri, LLC, which is also a Delaware limited liability company. The sole member of THI of Missouri, LLC is THI of Baltimore, Inc., which is a Delaware corporation with its principal place of business in Sparks, Maryland. Therefore, for diversity purposes, THI of Missouri at Gravois, LLC is a citizen of both **Delaware** and **Maryland**.

9. Hunt Valley Holdings, LLC

At the time the action was commenced in state court, Hunt Valley Holdings, LLC was and still is a limited liability company organized under the laws of Delaware. Its sole member is Murray Forman, who is a citizen of the State of New York. Thus, Hunt Valley is a citizen of the State of **New York**.

10. Fundamental Administrative Services, LLC (“FAS”)

At the time the action was commenced in state court, FAS was and still is a Delaware limited liability company, the sole member of which is Hunt Valley. Because Hunt Valley is a citizen of the State of New York, FAS is a citizen of the states of **Delaware** and **New York**.

11. Fundamental Clinical and Operational Services, LLC (“FCOS”)

At the time the action was commenced in state court, FCOS was and still is a Delaware limited liability company, the sole member of which is THI of Baltimore, Inc. As mentioned above, THI of Baltimore is a Delaware corporation with its principal place of business in Sparks, Maryland. Thus, FCOS is a citizen of the states of **Delaware** and **Maryland**.

12. Under the allegations in Plaintiff’s Complaint, Plaintiff states that she is seeking damages in excess of \$25,000.00, plus exemplary and punitive damages, attorneys’ fees, and her costs incurred herein. Based upon the foregoing, it is clear Plaintiff seeks damages in excess of \$75,000.00, granting this District Court diversity jurisdiction under 28 U.S.C. § 1332(a)(1).

13. Venue is proper in the United States District Court for the Eastern District of Missouri, as this cause of action accrued in St. Louis County, Missouri.

14. Pursuant to the provisions of 28 U.S.C. §1441, et seq., the right exists to remove this case from the Circuit Court of St. Louis County, Missouri, to the United States District Court for the Eastern District of Missouri, which embraces the place where this action is pending.

15. Removing Defendant will give written notice of the filing of this notice as required by 28 U.S.C. § 1446(d).

16. A copy of this notice will be filed with the clerk of the Circuit Court of St. Louis County, Missouri, as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendant THI of Missouri at Gravois, LLC, requests that this action proceed in this District Court as an action properly removed and for such other and further relief as may be just and appropriate under the circumstances.

Respectfully submitted,

KAMYKOWSKI, GAVIN & SMITH, P.C.

/s/ Mariel Taylor
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*Attorneys for Defendants THI of Missouri at
Gravois, L.L.C., d/b/a Sunset Hills Health &
Rehabilitation Center*

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the above and foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system on counsel of record this 7th day of February, 2018.

/s/ Mariel Taylor